



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,610	07/11/2003	Venkataramana Vijay	VIJ-003 A	2900

36822 7590 04/28/2005

GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD, CT 06902

EXAMINER

MILLER, CHERYL L

ART UNIT	PAPER NUMBER
----------	--------------

3738

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/617,610	Applicant(s) VIJAY, VENKATARAMANA	
	Examiner Cheryl Miller	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/6/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claim 30 is objected to because of the following informalities: Applicant has claimed coupling a second device adjacent P2, however P2 is not a lateral portion, but instead the posterior central portion applicant has claimed to be unrestrained. It is unclear how P2 can be unrestrained, yet at the same time have a device coupled to it. It is suggested to change "P2" to -P3-. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Mortier et al.

(US 6,332,893 B1). Mortier discloses a method of restricting the annulus of a heart valve (reducing stress, col.1, lines 44-50; changes geometry, col.3, lines 21-29; col.5, lines 2-9), the valve having an anterior portion, and posterior portion defining lateral and central portions (fig.12, 17, 18), the method comprising limiting expansion of lateral posterior portions of the

Art Unit: 3738

valve while leaving the central posterior portion unrestrained (fig. 12, 17, 18; wherein fig. 12 shows only the lateral portions restrained by device and fig. 17, 18 show the anterior and lateral portions restrained). Mortier discloses coupling a first device (28) to one lateral portion and a second device (28) to the other lateral portion (as seen in fig. 12), wherein the expansion is limited by cinching the lateral posterior portions relative to a device (the device being 28, the device cinching the valve as seen in fig. 12; cinching interpreted by its broadest definition to mean "to grip" and the device 28 is cinched to the valve by sutures, col. 4, lines 42-44 and tension members 24).

Claims 28-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Liska et al. (US 2003/0120340 A1, cited in IDS). Liska discloses a method of restricting the annulus of a heart valve (shown in fig. 2 and 4A to go from D1 to D2), the valve having an anterior portion (4), and posterior portion (6) defining lateral and central portions (see attachment 1), the method comprising limiting expansion of lateral posterior portions of the valve while leaving the central posterior portion unrestrained. Liska discloses coupling a first device (14) to one lateral portion and a second device to the other lateral portion (14), wherein the expansion is limited by cinching the lateral posterior portions relative to a device (cinching interpreted by its broadest definition to mean "to grip" and the device 14 is cinched to the valve by sutures or clips, pg. 2, lines 13-15).

Art Unit: 3738

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

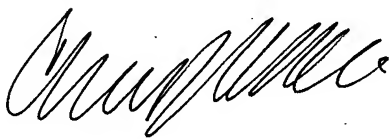
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cheryl Miller



BRUCE SNOW
PRIMARY EXAMINER

Attachment #1 (marked up)

Patent Application Publication Aug. 19, 2004 Sheet 1 of 3

US 2004/0162610 A1

